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Framework of the remuneration for work in Hungary**

1. Labour market and wage differentials in nutshell

As regards the regulation of remunerations, there are three segments of the economy in Hungary: 1. the private sector, 2. the public sector and 3. public works. It should be underlined that in this article mainly the wage issues of the private sector will be discussed. Gross earnings in the private sector (including non-profit organisations and majority-state-owned entities such as the Hungarian Post or the Hungarian State Railways) are shaped by the wage policies and business profits of economic organizations as well as the less significant wage agreements, the only single central intervention being the setting of the minimum wage. Nowadays, the price of labour in private sector is determined in the free market just like every other price, by the intersection of supply and demand.¹ However, trade unions and their collective bargaining power - unions might exercise their bargaining power to offset the power of an employer in a particular occupation and in doing so achieve a mark-up on wages compared to those on offer to non-union members.

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** This research was supported by the project nr. EFOP-3.6.2-16-2017-00007, titled *Aspects on the development of intelligent, sustainable and inclusive society: social, technological, innovation networks in employment and digital economy*. The project has been supported by the European Union, co-financed by the European Social Fund and the budget of Hungary.

¹ Classical economists call this the market theory of wage determination. When workers sell their labour, the price they can charge is influenced by several factors on the supply side and several factors on the demand side. The most basic of these is the number of workers available (supply) and the number of workers needed (demand). In addition, wage levels are shaped by the skill sets workers bring and employers need, as well as the location of the jobs being offered. The interplay between all of these factors will eventually cause wages to settle—that is, the number of workers, the number of jobs, the skills involved, and the location of the jobs will eventually lead workers and employers to reach a series of wage agreements. If employers (demand) cannot find enough workers to meet their needs, they will keep raising their wage offers until more workers are attracted. If workers are in abundance (supply), wages will fall until the surplus labour decides to go elsewhere in search of jobs. When supply and demand meet, the equilibrium wage rate is established.

Nevertheless, average wages in the private sector and the minimum wage have been increasing at the same rate since 2013.² This ensures that the lag of employees working in low-wage professions does not increase, and also that small businesses, where wages constitute only a part of the remuneration, pay taxes and contributions on at least the minimum wage and in this way their employees are entitled to various benefits (sickness benefit, old-age pension) based on increasingly higher contributions. However, on survey made in 2015 shows that the average income of the highest-earning Hungarian workers was twenty-eight times higher than that of employees with the lowest-paying jobs,³ according to a survey covered 56,000 employees, organized by personnel services company Trenkwalder and partner Simconsult.⁴

In the economic sectors characterised by the dominance or exclusivity of the private sector, the highest earnings are traditionally in the finance and insurance professions, with an average monthly gross salary of 494.000 HUF. This is followed by IT and communication (460.300 HUF) and by the electricity, gas, steam and air conditioning sector (438.600 HUF). In the processing industry, where earnings are average, coke production and crude oil processing came first, with an average monthly gross salary of 644.000 HUF, followed by the pharmaceuticals industry with 440.200 HUF. The latter was four times as high as the average of the lowest paying branch of the processing industry – textile, clothing, leather and leather products manufacturing (160.100 HUF). (See details Tables 2-4 in appendix.)

While average wages in trade vehicle repair were below the average of the private sector both in their levels and rate of increase, several big supermarket chains were forced to raise wages in the last third of the year due to increasing labour shortages. The flight of trade workers mainly resulted from the lower wages due to Sunday shop closure, the extra workload due to increased traffic on Friday and Saturday as well as the draining effect of higher earnings and better working conditions in the processing industry. The public sector, employing 698 000 people on average in 2015 is regulated centrally. The basic elements of the remuneration system established in the 1990s have been unchanged since 2008, while some of the bonuses (such as the guaranteed 13th month salary) have been terminated.

Recently there have been frequent wage adjustment measures, often in an ad hoc manner, focusing on certain groups of employees as well as the removal of certain restrictions. Since these changes are partial, occasionally they create tension even within

² In general, countries with lower-than-average pay levels, for instance Eastern European countries, recorded stronger wage growth. Pay increases were at the fastest pace in the Baltics, in particular Latvia. Sweden and Hungary also recorded a relatively high growth of compensation per employee. (See details: Labour Market and Wage Developments in Europe Annual Review 2016 European Commission Directorate-General for Employment, Social Affairs and Inclusion Directorate A Manuscript completed in October 2016 p. 40)

³ Employees earned above-average pay in information technology and technical and financial areas while wages remained below the average in logistics, administration, education, health care and social services. In terms of sectors, employers in vehicle manufacturing and the machine industry, and to a lesser extent, the construction and building materials sectors pay higher-than-average wages. Foreign-owned companies pay at least 5-10% more than Hungarian employers, but in some areas this difference can exceed 30%. In a regional comparison, wages are higher than the average in Budapest and Central Hungary as well as the Western part of Transdanubia.

⁴ https://bbj.hu/economy/survey-shows-huge-wage-gap-in-hungary_105733 (12-05-2017.)

a workplace. As a result of measures of recent years, the difference between the average wages of the private and public sectors has decreased. At a 6.3 per cent rate of increase, the gross earning of public sector employees was 256.4 thousand HUF on average in 2015, not including public works participants. This was only seven thousand HUF lower than the average of the private sector but the differences between the various occupational groups and the lag of public sector areas are still significant.⁵

II. The Concept of Wages

According to the HLC (Hungarian Labour Code), a worker is entitled to a wage from the employer on the basis of his/her employment. The basic wage must be at least the mandatory minimum wage. Any agreement departing therefrom will be void. In the absence of an agreement departing therefrom, the employee will be entitled to a wage corresponding to the basic wage specified in the employment contract.⁶

Principle of equal pay. In respect of the remuneration of employees for the same work or for work to which equal value is attributed, the principle of equal treatment must be observed (principle of equal pay).⁷ The equal value of work for the purposes of the principle of equal treatment should be determined based on the nature of work, its quality and quantity, working conditions, vocational training, physical and intellectual efforts, experience and responsibilities.

Within the scope of the principle of equal pay, “wage” shall mean any remuneration provided to the employee directly or indirectly in cash or kind, as well as social benefits, based on his/her employment. The wages of employees - whether based on the nature or category of the work or on performance - should be determined in compliance with the principle of equal treatment.⁸

III. Evaluation of Labour

1. The Wage System

A. The concept of the wage system

The requirement of adequate reward for the quality and quantity of work can be fulfilled if there is a measure which considers both the quality and quantity of work, and the extent of time worked. This system functions by two methods. One is the wage-rate,

⁵ The Hungarian Labour Market 2015 Editors Károly Fazekas and Júlia Varga, Institute of Economics, Centre for Economic and Regional Studies, Hungarian Academy of Sciences, Budapest, 2015. 30-34. p. http://www.mtakti.hu/file/download/HLM2015/TheHungarianLabourMarket_2015_onefile.pdf (15-04-2017.)

⁶ <http://munkajog.com/munkajog/munkaberazujmtszerint.html> (12-05-2017.)

⁷ KÉRI ÁDÁM: *Egyenlő munkáért egyenlő bér: mikor tehet különbséget a munkáltató?* http://adozona.hu/munkajog/Egyenlo_munkaert_egyenlo_ber (10-04-2017.)

⁸ <http://www.egyenlobanasmod.hu> (16-04-2017.)

the other is a unit of work which can be fixed for a time period or a natural unit (piece, meter) or by specifying a level or task (for example, there is a ten (10) per cent reduction for the production of shoddy goods). Wages are determined simultaneously by these two methods. When wages are calculated according to the number of units produced, this is called task wage (piecework). When wages are calculated according to time worked without regard to the number of units produced, this is known as payment according to basic rate.⁹ According to the HLC, the wage due to the worker may be established as a time wage (wage rate), a task wage or a combination of the two. However, the basic wage must be specified on a time basis (time wage).

According to Subsection (3) of Section 137 of the HLC, wages in the form of performance-based wages (task-based wage) exclusively may be established only if so agreed in the employment contract. This also applies where wages are paid on a time and performance basis combined, if the time rate is lower than the basic wage.¹⁰

B. Payment in accordance with time worked

In the case of a wage system based on time, the sum of the wage depends on the period spent working. The wage rate is multiplied by the hours worked. A main disadvantage of such a system is that it bears no relation to the quality or quantity of work. Thus, it provides no incentive to increase efficiency and to improve the quality of output.¹¹

The monthly basic wage must be divided by the number of hours required in the given month according to the general working schedule, then this amount must be multiplied by the number of hours required during the period in question according to the general working schedule.¹²

C. Task-wage (piecework) rates

548. In the case of piecework systems,¹³ the wage depends directly on the amount produced. Piecework systems are advantageous in ensuring production of a given quantity and quality. They are in this respect in the interest of society and the individual workers.

Generally, the principle is that the piecework system should be used in every case where it offers advantages for production. Performance requirements and the task-wage factors will be determined by the employer. They must be made known in writing to the workers concerned.

If wages are paid on the basis of performance, performance requirements will be determined by the employer on the basis of preliminary and objective surveys and calculations covering the potential to perform one hundred per cent of such requirements during regular working hours. Performance requirements are to be established, and employee groups under the same performance requirements are to be

⁹ NAGY LÁSZLÓ: *A munkabérek szabályozása a piacgazdaságokban*, KJK Könyvkiadó, Budapest 1993. 69–75. pp.

¹⁰ DUDÁS KATALIN – GYULAVÁRI TAMÁS – HORVÁTH ISTVÁN – HÓS NIKOLETT – KÁRTYÁS GÁBOR – KULISITY MÁRIA – KUN ATTILA – PETROVICS ZOLTÁN, *Munkajog*. Budapest: ELTE Eötvös Kiadó, 2012. 311–312. pp

¹¹ <https://www.hrportal.hu/hr/idober--teljesitmenyber--premium--jutalek---milyen-szabalyok-vonatkoznak-rajuk-20151120.html> (12-05-2017.)

¹² <http://www.hrsentinel.hu/mt/munkaber.html> (08-05-2017.)

¹³ HARASZTI MIKLÓS: *Darabbér*. Téka Kiadó, Budapest, 1989.

determined in a manner consistent with the employer's operating conditions, such as the objective requirements relating to the performance of work, work organization and the technology employed.

In the event of any dispute concerning performance requirements, the burden of proof to verify that the procedure did not violate the above-mentioned provisions lies with the employer.

In the case of employees whose wages are paid on the basis of performance only, a guaranteed salary is to be paid of an amount up to at least half of the basic wage.

The personal basic wage or the performance wage shall be at least the mandatory lowest wage (minimum wage) in accordance with the conditions specified; no deviation from this provision will be considered valid. The performance factors for full-time employees will be established so that the wages payable upon one hundred percent fulfilment of the normative performance requirement and upon the completion of the entire work time shall amount to at least the mandatory minimum wage. No deviation from this provision will be considered valid.¹⁴

2. Supplementary Payment

A. The concept of supplementary payment

When normal wage rates are fixed, special circumstances which may arise are not taken into account. Thus, provision is made for the payment of supplementary wages. These take the form of premium or bonus supplements and gratuities.

If the regulation pertaining to employment or the agreement between the parties prescribes the payment of a wage supplement, the worker's basic wage will be the basis for its calculation in the absence of an agreement departing therefrom.

Supplementary payments are generally determined by collective agreement or by agreement between the parties by the employment contract or by the employer unilaterally. In some cases, the law provides for supplementary payments in order to protect the workers' interests (some of these are treated in other Chapters, e.g. overtime supplement).

B. Night-work supplement

Employees - other than those entitled to shift supplement (see below) - will be entitled to a fifteen (15) per cent wage supplement for night work, provided that it exceeds one (1) hour.

C. Sunday supplement

The fifty (50) percent Sunday supplement is payable both for scheduled work, and also for unscheduled work in the cases already specified in the legislation (e.g. employees with working schedules involving multiple shifts).

¹⁴ HAJDÚ JÓZSEF – KUN ATTILA (eds.), *Munkajog I.* Budapest: Patrocinium, 2012. 203-207.pp.

D. Public holidays supplement

Employees required to work on public holidays in regular working time will be entitled to a one hundred (100) per cent wage supplement. The same amount of wage supplement will be paid for working on Easter Sunday or on Whit Sunday, or on public holidays falling on Sundays.

E. Overtime supplement

In accordance with the relevant employment regulations or by agreement of the parties, employees will be entitled to a fifty (50) per cent wage supplement or to time off:

- a) for overtime work performed in addition to the daily working time shown in the work schedule;
- b) for work performed within the framework of working time banking; or
- c) for work performed above and beyond the payroll period.

The duration of time off may not be less than the overtime work ordered or the work performed, and will be remunerated by a commensurate part of the basic wage.

Where overtime work is ordered on the scheduled weekly rest day (weekly rest period), a one hundred (100) per cent wage supplement must be paid. The wage supplement will be fifty (50) per cent if the employer provides another weekly rest day (weekly rest period). When overtime work is ordered on a public holiday, the employee shall be entitled to the above-mentioned (fifty per cent) a wage supplement.

The time off or the weekly rest day (weekly rest period) will be allocated at the latest during the month following the month when the overtime work was performed, or by the end of the banking of working time or the payroll period in the case of an irregular work schedule. In connection with work performed in derogation of the above, or over and above the relevant working time banking arrangement, the time off shall be provided at latest by the end of the next working time banking cycle. By agreement of the parties, time off shall be provided at latest by 31 December of the following year.

F. Shift-work supplement

If the beginning of the scheduled daily working time of employees changes frequently,¹⁵ for work performed between eighteen hours (18:00) and six hours (6:00) a thirty per cent wage supplement (special payment for shift work) must be paid.

G. Stand-by and on-call-duty supplement

For stand-by duty forty (40) per cent, and for on-call duty twenty (20) per cent wage supplement must be paid, respectively. However, in connection with stand-by work, if the work performed cannot be measured, a fifty (50) per cent wage supplement must be paid.

¹⁵ Changes shall be considered frequent if - on a monthly basis - the beginning of the scheduled daily working time differs for at least one-third of all working days, and if the earliest and the latest start time are at least four hours apart.

In the employment contract the parties, a) in lieu of wage supplement; b) in the case of stand-by and on-call duty; may stipulate a fixed monthly payment covering regular wages and wage supplements as well.¹⁶

IV. Administration of the wage system

1. Fixing of individual wages

A distinction must be made between the determination of the wage rate and a worker's individual wage. The law or the collective agreement, or the agreement between the parties contains the rules of a normative character which generally determine the wage rate in an abstract way. A worker's basic wage must be fixed in the employment contract on the basis of the wage rate.

2. Minimum wage

The minimum wage is determined by the law. The minimum wage is a guarantee for workers to receive a decent wage. According to Section 153 of the HLC, in Hungary there are two types of minimum wage: 1. compulsory minimum wage¹⁷ and 2. guaranteed wage minimum.¹⁸

At the least, the compulsory lowest wage (minimum wage) must be due as the basic wage or the task wage, in accordance with the conditions specified; no valid departure can be made therefrom. The performance requirement, normative for a full-time employee, will be established in such a way that, in the event of a 100 per cent fulfilment and completion of the full working hours, the wage due will amount to at least the compulsory minimum wage. No valid departure can be made therefrom.¹⁹

A compulsory minimum wage will be established in a certain field or area if this is necessary considering the working conditions. The mandatory minimum wage specified by the Government for certain groups of employees may differ.

The amount and scope of the mandatory minimum wage shall, in particular, be determined based on the requirements prescribed for specific occupations, the indicators of the national labour market, the status of the national economy, and the unique requirements of certain economic sectors and geographical areas in terms of workforce.

¹⁶ BERKE GYULA – KISS GYÖRGY (eds.): *Kommentár a munka törvénykönyvéhez*, Budapest: Complex – Wolters Kluwer, 2012. 388–397.pp.

¹⁷ Compulsory minimum wage is a minimum wage paid for every worker, except skilled workers.

¹⁸ The guaranteed wage minimum is a minimum wage paid for skilled workers.

¹⁹ <http://ado.hu/rovatok/munkaugyek/minimalber-garantalt-berminimum-2013-ban> (21.01.2013.) skilled workers.

¹⁹ The guaranteed wage minimum is a minimum wage paid for skilled workers.

The compulsory minimum wage payable to employees and the guaranteed wage minimum is established by the Government. The amount of the mandatory minimum wage shall be reviewed each calendar year.²⁰

Table 1

The rate of the compulsory minimum wage and guaranteed wage minimum in Hungary 2010-2017

	Compulsory minimum wage	Guaranteed wage minimum
2010	HUF 73,500 (approx. €245)	HUF 89,500 (approx. €298)
2011	HUF 78,000 (approx. €260)	HUF 94,000 (approx. €313)
2012	HUF 93,000 (approx. €310)	HUF 108,000 (approx. €360)
2013	HUF 98,000 (approx. € 350)	HUF 114,000 (approx. € 400)
2014	HUF 101,500 (approx. €327)	HUF 118,000 (approx. €381)
2015	HUF 105,000 (approx. €339)	HUF 122,000 (approx. €394)
2016	HUF 111,000 (approx. €358)	HUF 129,000 (approx. €416)
2017	HUF 127,500 (approx. € 411)	HUF 161,000 (approx. € 519)

Source: Author's own source.

V. Remuneration for Periods of Inactivity

1. General principles

As a rule, wages are paid only for work done. When a worker does not work, he/she is not entitled to remuneration. However, there are, of course, exceptions to this general rule. These exceptions may be divided into four groups. In the first belong rest periods.²¹ In the second are those instances when the worker does not fulfil his/her labour duties on the instructions of an outside authority. To the third group belong cases where the worker is not obliged to work according to provisions of law. In the fourth category are those cases when the worker does not work for reasons arising within the enterprise.²²

2. Remuneration for rest periods

Remuneration is paid for holidays, regular annual vacation and in certain cases for extraordinary leave. Workers are not paid for breaks during daily working hours.

²⁰ https://www.nav.gov.hu/nav/ado/jarulek/Minimalber_garantalt_berminimum.html (09-05-2017.)

²¹ <http://www.hrsentinel.hu/mt/munkaido.html> (08-05-2017.)

²² https://vallalkozas.munka.hu/munkajog/-/asset_publisher/uN16/content/a-munkaidore-pihenoidore-es-szabadsagra-vonatkozó-hatályos-jogszabályok (21-06-2017.)

A. The public holiday

Remuneration is paid equal to the hourly rate of the worker's absentee pay. This is to ensure that the public holiday is a genuine period of relaxation. (Those getting a monthly wage are an exception because such a wage includes remuneration due for public holidays.)

B. Annual vacation

An employee is entitled to his/her absentee pay for the time of his/her annual holiday which includes both basic and extra leave.

C. Extraordinary leave

Similarly, during a period of extraordinary paid leave the worker receives his/her average wage.

3. Wages for periods not worked on the directive of an outside authority

In some cases the worker may be ordered not to work by the order of a certain external authority. As work ceases in the common interest, it is reasonable that the burden must be borne by society and that the worker receives wages for the period missed. Examples of such periods are where a worker has to be present at an election, or in court of law as a witness or has to act as a councillor. The amount, unless otherwise specified by law, is always the average wage.

4. Other types of absence

Different types of circumstances belong to this group. They have in common: absence as a result of an urgent personal or family situation, such as the death of a close relative or nursing, a social activity. The worker receives his/her absentee pay for the period of absence unless otherwise provided by law.²³

5. Wages for periods of inactivity for reasons arising within the enterprise

Here, three categories must be distinguished: exemption from work, unlawful prevention of working activity, and closure. In these cases, if the law does not provide otherwise, basic wages are due to the worker.

²³ HAJDÚ JÓZSEF 2011, 157. p.

A. Exemption from work

Performing labour is not only the duty but also the right of the worker. So the employer cannot exempt him/her from work except in cases determined by law or on the basis of his/her own demand.

B. Unlawful prevention of working activity

If an employer unlawfully prevents a worker from working, the average wage must be paid throughout the entire period. The unlawful behaviour of the employer forms the basis of the duty to pay, so culpability is not the condition of the duty mentioned earlier. Unlawful circumstances may be divided into two sets: first, there are those cases where the employer is unwilling to provide work, or wrongly suspends a worker, or does not provide the necessary safety equipment so that the worker legitimately refuses to work. The second set of circumstances includes those cases where the employer infringes a worker's legal rights. In the case of employee's culpability the employee is also entitled to compensation.

C. Temporary closure or standstill

Sometimes, for reasons internal to the employer, a worker is prevented from working. These include, for example, shortage of raw materials or fuel or breakdown of machinery. In such cases, labour law provides that his/her basic wage is due to the worker, even if there is no single individual in the enterprise who may be held liable. The employee, if he/she is unable to carry out work for a reason within the employer's scope of operation, will be entitled to his/her basic wage for the resulting lost working time (stop time). In the absence of a regulation pertaining to employment or an agreement between the parties departing therefrom, this provision shall also be normative when the employer, in an economically justified case, makes the employee temporarily work shorter time.²⁴

6. Wage for absence period

The wage for absence period will be paid where the regulations pertaining to employment prescribe the payment of wages in the absence of work done, without specifying the actual sum.

The calculation of absence payment is as follows:

- a. by default, the amount of the absence pay must be calculated on the basis of the applicable monthly basic wage and the average wage supplements, if any;
- b. in the case of employees who are paid performance based wages and/or are eligible for wage supplements, the amount of such wages and supplements paid

²⁴ BODNÁR LILLA: *Az új Munka törvénykönyve munkavállalóknak*, Budapest: Complex – Volters Kluwer, 2012. 86. p.

over the previous 6 months must also be considered in the course of calculating the amount of the absentee pay.²⁵

In simple terms: if there is no performance based wage or wage supplement (typically in the case of employees receiving a simple monthly basic wage or hourly wage who are not eligible for wage supplements, only perhaps a fixed average supplement), only the "fixed" amounts must be taken into account (basic wage plus average supplement). In such cases the amount of the absence pay is equal to the amount of the monthly payments proportionate to the period of absence, where the fraction of the basic wage payable for a specific period is calculated with the method described above: the monthly basic wage must be divided by the number of hours required in the given month according to the general working schedule, then this amount must be multiplied by the number of hours required during the period in question according to the general working schedule (Subsection (3) of Section 136 of the Labour Code).

Subsection (2) of Section 149 of the Labour Code offers further simplification by stating that in the case that it is not necessary to make calculations with performance based wages and wage supplements (i.e. in the case of employees who receive simple monthly basic wages, hourly wages, and perhaps average supplements), the employer may choose to pay the time proportionate amount of the monthly basic wage, hourly wage and average supplement for the duration of the absence instead of paying an absence pay. This option means that there is no need to calculate the amount of absence pay in months when the employee is absent, and the employer should simply pay the standard monthly basic wage, hourly wage and average supplement as this amount will be equal to the amount of the absence pay.

The daily amount of the absence pay must be calculated on the basis of the actual date of the absence, which is defined as the start of the absence, therefore for example in the case of a leave, the absence pay must be calculated on the basis of the basic wage payable for the month in which the employee started his or her holidays, while in the case of supplements the previous six (6) months must be taken into consideration.

It is important to point out that in cases when the supplements paid over the previous six (6) months must also be considered in the course of calculating the absence pay, supplements paid for Sundays must also be taken into consideration, provided that over such 6-month period the employee was working at least one out of three Sundays as part of his or her regular working schedule.

The calculation of the absence pay is that wage supplements (shift supplements, night supplements, Sunday supplements, as well as wage supplements paid for on duty and stand-by periods) must be considered in the course of calculating the hourly amount of the absence pay by dividing the amount of wage supplements paid for the given period (i.e. the six months preceding the payment of the absence pay) by the number of hours the employee worked over this period during his/her regular, scheduled working hours.²⁶

²⁵ <http://jogaszvilag.hu/rovatok/szakma/augusztustol-valtozik-az-alapber-es-berpotlek-szamitasa> (08-06-2017.)

²⁶ CSÉFFÁN JÓZSEF: *A munka törvénykönyve és magyarázata*, Szeged: Szegedi Rendezvényszervező Kft., 2016. 395–397. pp.

VI. Legal Guarantees of Wages

1. Types of guarantees

Legal guarantees have a dual function. They ensure, on the one hand, that the wage/salary of the worker/employee is fixed in accordance with the law. On the other hand, the law sees to it that the worker/employee receives wages/salaries based on work in full and at the specified time. Rules fixing the individual basic wage or salary, that is information about the conditions of payment, are within the scope of the first task. The second function is aided by the regulations governing the payment of wages, deductions from wages, and putting forward the law of reprisal and retaining, against the claim for wages.

2. Fixing the conditions of the wages and notification

A. Fixing the basic wage

The basic wage of the worker has to be laid down in the contract of employment in accordance with the law. This is the basis for calculating the wage to which the worker is entitled for work carried out.

B. Notification of conditions of payment

The worker has to be notified of all conditions of payment (e.g. the wage system, the form of the wage, expected work performance), as well as of any change in them before starting a given job. The payroll statement of wages paid must be made available in writing by the tenth (10) day of the following month. Backdating is not admissible. The payroll statement must have facilities to allow the employee to check the authenticity of calculations, as well as the grounds and sums of deductions.

3. Withdrawal of the claim for wages

The employee shall not relinquish his/her claim to his/her wage in advance. That part of the wage which is exempt from deduction will not be transferred. Regulations pertaining to employment may prohibit the transfer of a wage claim falling due in the future.

The worker is not entitled to a wage when, because of his/her negligence, the product does not conform to the required specifications. If, however, the scrapped product can be partly or totally utilized by the employer, the worker is entitled – in accordance with the provisions of the collective agreement or of the agreement between the parties – to a reduced wage.

4. Payment of wages

A. Calculation and date of payment

The wage due to an employee is calculated and paid on a single occasion, in arrears, each month, unless regulations pertaining to employment or the agreement between the parties provide otherwise. If the employment lasts for less than a month, the wage is calculated and paid at the end of the employment.

If payday falls on a weekly rest day (weekly rest period) or a public holiday, the wages must be paid at the latest on the last preceding working day. If an employee is not at his/her place of employment for justified reasons on payday, his/her wages must be paid on the last preceding working day spent at such place, or shall be sent to his/her place of residence at the employer's expense.

The wage must be paid out no later than the tenth (10) of the month following the month in question, unless the regulations pertaining to employment or the agreement between the parties provide differently. If a payment day should coincide with a rest day or a public holiday, the wage will be paid on the preceding day at the latest. If the employee, on the payment day, cannot be at his/her place of work for a justified reason, then, upon his/her request, his/her wage shall be paid on the last working day prior to payment day, or be sent, at the employer's expense, to the place where he/she is staying.

In the case of workers whose wages are paid on the basis of performance only, if the result serving as a basis for the employee's wages, in full or in part, can only be established after a period of more than one month, it shall be paid at the time as appropriate. An advance shall be paid at least monthly, amounting to half of the basic wage.

The employer must pay at latest on the working day preceding the date when vacation commences:

- a) the wages due on a payday falling within the time of the vacation; and
- b) the wages payable for the time of leave.

B. Place of payment

According to provisions of law, wages must be paid at the place of work. The wage should be paid during working time, except if the regulations pertaining to employment stipulate otherwise. It should be paid to the employee in person except where somebody else has been authorized to that effect or if the employee is restrained from receiving it in person as a result of a court sentence or order by some other authority.

C. Method of payment

Wages must be paid in cash, or by way of transfer to the payment account the employee has indicated. If wages are paid by way of transfer to the employee's payment account, the employer must ascertain that the employee shall have access to his/her wages on payday. Payment of wages may not invoke any cost on the employees' part, except if the transfer is made to a payment account opened at a payment service provider that is established or has a branch in a state other than Hungary.

If employment was terminated prior to payment, the employer must forward the wages on the due day to the address indicated by the employee. The costs thereof will be borne by the employer.

D. Control

The possibility for the worker to check that wages have been calculated accurately must be ensured. Therefore the employee shall be provided with a detailed written statement of his/her wage. Calculations shall be such that the employee can check not only the correctness of the calculations, but also the reason and amount of any deductions.²⁷

VII. Deductions from wages

1. Legal deductions

Deductions may be made from wages 1) if the worker wishes it, or 2) if a lawful decision, such as by a court or other authority, so provides. In these cases, the worker is protected against withholding without legal cause, for he/she can clarify by certain procedure of the state administration or court whether he/she is in debt and for what amount. The deduction-free part of the wages shall not be assigned.

The employer may deduct any debt arising from him/her having paid the employee in advance.

It is forbidden to impose a wage deduction that benefits the employer, his/her representative or a mediator in exchange for the establishment or retention of the employee's employment. No set-off is permitted in relation to deduction-free wages.

2. The upper limits of attachment

To ensure that a worker and his/her dependants have an adequate income, the law must not only provide for attachment of earnings but must also establish limits to it. Deductions from wages are subject to judicially enforced rules of law. According to these rules, two categories can be distinguished. According to the general rule, the measure of deduction is thirty-three (33) per cent. In special cases it may reach fifty (50) per cent (e.g. alimony, costs arising from childbirth, or wages received in bad faith). However, the part of wages remaining after deductions cannot be less than the minimum pension determined by the rules on social insurance.

The upper limits of thirty-three (33) per cent and fifty (50) per cent have binding force. Any contract or unilateral legal declaration which raises the upper limit of attachment is null and void. The employer – without the worker's approval – cannot deduct more than thirty-three (33) per cent or fifty (50) per cent of wages. Deductions shall not exceed fifty (50) per cent of the wages, even if it would be reasonable because

²⁷ BERKE GYULA – KISS GYÖRGY (eds.): 2012, 403-407.p.

of priority demands. It may happen that several debts must be deducted. In such cases the law defines the sequence in which they are deducted.

3. Duties of the employer concerning deductions

In the case of a worker's debt as regards a third party, the employer is still responsible for deduction. If the employer ignores this, he/she as a guarantor, is responsible for prompt payment. If the worker's labour relationship comes to an end, the employer is obliged to make out an employer's certificate noting the worker's debts to be subtracted from his/her wages.²⁸

VIII. The law governing retention of wages

1. Charges against wages

A distinction must be made between deductions from wages and charges against wages. Charges made against wages are at the unfettered discretion of the employer within the framework established by law. When charges are made against a worker's wages, the regulations governing withholding apply.

2. Retention of wages

Wages may be retained if the employer has a legal claim. If the claim is for money, then there is no practical difference between charges against wages and the retention of wages. The result of both legal actions is the same: the worker does not receive the full amount of the wages claimed. In determining whether retention is possible and in establishing the amount, the regulations governing withholding are applied. However, the employer shall not resort to inclusion in relation to a deduction-free wage claim, or otherwise, if that is prohibited by the regulations pertaining to employment.

3. Erroneously paid wages

Any wages paid without legal grounds may be reclaimed after sixty days if the employee should have recognized, or has him/herself caused, the unsubstantiated nature of the payment. The employer can demand the refund within the period of limitation where the worker is aware of the erroneous payment or was the cause of it. The reason for the limitation of repayment is that the worker lives on his/her wages and could get into a difficult situation if required to repay the erroneously obtained money after too

²⁸ HAJDÚ JÓZSEF – KUN ATTILA (eds.) 2012, 324–325. pp.

long a period. If the worker has received less than his/her due because of an error, he/she may request the difference any time within the period of limitation.

In the event of any delay, interest for late payment must be paid from the date of default as calculated by the central bank base rate in effect on the last day preceding the calendar half-year to which it pertains.

4. Charges the worker owes to the employer

If the employer has a financial claim on the worker, for example, if the latter has not repaid the unused part of a sum received in advance to cover expenses when on duty outside the enterprise, the worker must be invited in writing to pay back.²⁹

IX. The Wage Guarantee Fund

Similarly to the Member States of the European Union Hungary operates a wage guarantee fund. The employers and employees have to pay regular contributions via compulsory insurance.³⁰ The amount of the contribution employers pay bears a relationship to the number of their employees.³¹

In Hungary, an act on guaranteed wages was passed only in 1994, well after the commencement of the transition in 1990, via Act LXVI. According to the insolvency act,³² employees do not get payments automatically in the case of the bankruptcy (in Hungarian: csődeljárás)³³ or liquidation³⁴ (in Hungarian: felszámolási eljárás) of their

²⁹ HAJDÚ JÓZSEF 2011, 163–164.pp.

³⁰ HORESNYI JULIANNA: *Bérgarancia. A magyar szabályozás és annak gyakorlata* PhD értekezés. Szeged 2009

³¹ http://www.afsz.hu/engine.aspx?page=ma_tamogatas&switch-content=ma_tamogatas_bergarancia&switch-zone=Zone1&switch-render-mode=full (11. 05. 2017.)

³² Insolvency in Hungary is declared by the court, if:

- the debtor has failed to settle or contest (in writing) its previously uncontested or acknowledged contractual debt within 20 days of the due date, and has not made the payment despite the creditor's written demand after this period;
- the debtor has failed to settle its debt within the deadline specified in a final and binding court decision or order for payment;
- enforcement against the debtor was unsuccessful;
- the debtor has not fulfilled its payment obligation when an agreement was reached in the bankruptcy or liquidation proceedings;
- the court terminated the previous bankruptcy proceeding;
- the debtor's debts exceed its assets in the proceeding initiated by the debtor or by the liquidator, or the debtor was or will presumably be unable to settle its debts on the due date, and in the proceeding initiated by the liquidator, the debtor's owners fail – despite due notice – to provide a statement of commitment to guarantee the funds necessary to cover such debts when due.

³³ Bankruptcy proceedings are those proceedings where the debtor is granted a stay of payment (moratorium) with a view to seeking an arrangement with creditors, or attempts to enter into a composition arrangement with creditors. In bankruptcy proceedings, worker-related claims (specifically wage/salary claims) are not affected by the moratorium nor enjoy any special priority. Should the insolvent debtor be able to cover wages and related costs (which is usually the case during the period of the moratorium of 90 days, which could be lengthened upon the debtor's request), workers receive their income in due time.

employer, as the principle of insurance requires for particular insurance events; it is the employer, administrator or liquidator who has to make a claim for a loan from the fund to ensure the payment of back wages. This loan must be paid back by the employer, or its legal successor, or the administrator/liquidator out of the income brought in during the bankruptcy or liquidation proceedings. This style of procedure is inconsistent with the relevant EU Directive,³⁵ which is based on insurance principles, and the national regulations of the Member States. Neither is it in compliance with the automatic obligations of the wage guarantee fund that the labour agencies may supervise loan requests made in insolvency cases, and that it may refuse a request if an employer has not repaid a loan sought in consequence of an earlier insolvency.³⁶

The liquidator, in determining the request for a loan, can take into account the amount of the entitled economic organisation's back pay of wages for employees outstanding on the pay day up to a maximum of four times the amount of the monthly average national salary per employee in the second preceding year to the current year as announced by the Central Agency of Statistics.

The Hungarian regulation is actually a combination of the two systems: as far as resource collection is concerned, it is based on insurance elements; concerning the payment process, it is the loan elements which dominate. It is also obvious that, in line with European practice, employees' organisations are seeking to strengthen the insurance character of the Hungarian rules. This dual character is not completely unfortunate if we take into simultaneous consideration both the social and the economic aspects. Resources organised on an insurance basis come, on the one hand, out of the money paid by employers, managed officially as taxation and state contribution income. On the other hand, resources separate from the budget can also be brought into play. The financial resources are available and, in practice, they are sufficient to cover needs.³⁷

³⁴ When a company will be insolvent, it will be subject to liquidation. In this case, workers have opportunity to turn to the Labour Court, but usually it means a difficult process. The other way is if the worker turn to the Wage Guarantee Fund. The liquidator must indicate to the competent employment center and the Wage Guarantee Fund, If the company can't comply paying the wages. The administration period is 15 days, after the submission of the application. It doesn't mean a complete security, because the Wage Guarantee Fund have a maximum limit regarding to the payable wages. Central Statistic Office (Központi Statisztikai Hivatal, KSH) determine this maximum amount in every year. This amount is 1.188.500 huf in 2016.

If the insolvent debtor is unable to cover wages and related costs, the company begins liquidation proceedings. Liquidation proceedings are those proceedings which aim to provide satisfaction to the creditors of an insolvent debtor upon the dissolution of the debtor without legal successor. The employer as a creditor has the opportunity to announce his/her claim to the liquidator within 40 days from the publication of the liquidation.

In liquidation proceedings, liquidation costs can be satisfied upon maturity (if circumstances allow) and as such enjoy a privileged status. Liquidation costs include, among others, wages and other personnel costs payable by the debtor, including severance pay due upon the termination of employment and any other benefits fixed in the collective agreement or in the contract of employment. Liquidation costs also enjoy a similar privileged status when debts are already satisfied from the assets of the debtor subject to liquidation: liquidation costs are the first priority in the payment order.

³⁵ Directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on the protection of employees in the event of the insolvency of their employer

³⁶ <https://www.eurofound.europa.eu/observatories/emcc/erm/legislation/hungary-wage-guarantee-in-case-of-insolvency>

³⁷ HAJDÚ JÓZSEF – KUN ATTILA (eds.), *Munkajog I.*, Budapest: Patrocinium, 2012. 225–227.pp.

APPENDIX

Table 2

Hungarian labour market overview

Hungary Labour	Last	Previous	Highest	Lowest	Unit
Unemployment Rate	4.40	4.60	11.80	4.30	percent
Employed Persons	4392729.00	4378037.00	4414354.00	3678730.00	
Unemployed Persons	203102.00	209045.00	506520.00	197565.00	
Long Term Unemployment Rate	2.00	2.20	5.70	2.00	percent
Youth Unemployment Rate	10.40	10.40	29.20	10.40	percent
Labour Costs	124.30	113.40	124.30	32.00	Index Points
Job Vacancies	59831.00	55526.00	59831.00	21130.00	
Wages	303011.00	298276.00	303011.00	60268.00	HUF/Month
Wage Growth	14.60	12.80	26.19	-5.30	percent
Minimum Wages	411.52	350.09	411.52	89.15	EUR/Month
Population	9.83	9.86	10.71	9.21	Million
Retirement Age Women	62.50	62.50	62.50	59.00	
Retirement Age Men	62.50	62.50	62.50	60.00	
Employment Change	1.00	0.60	2.80	-1.40	percent
Employment Rate	58.79	58.56	58.84	47.98	percent
Full Time Employment	4157.10	4135.70	4157.10	3150.50	Thousand
Productivity	92.80	113.00	113.00	59.70	Index Points
Part Time Employment	201.70	206.60	265.20	111.90	Thousand
Labour Force Participation Rate	61.51	61.35	61.61	53.84	percent
Living Wage Family	230141.50	222903.40	355300.00	212114.50	HUF/Month
Living Wage Individual	180032.10	179101.40	180032.10	164811.50	HUF/Month
Wages High Skilled	271000.00	262900.00	274300.00	185500.00	HUF/Month
Wages Low Skilled	116300.00	116100.00	116300.00	110500.00	HUF/Month

Source: <https://tradingeconomics.com/hungary/wages>

Table 3

Nominal and real earnings

Year	Gross earnings	Net earnings	Gross earnings index	Net earnings index	Consumer price index	Real earnings index
	HUF		previous year = 100			
1990	13 446	10 108	128,6	121,6	128,9	94,3
1995	38 900	25 891	116,8	112,6	128,2	87,8
1996	46 837	30 544	120,4	117,4	123,6	95,0
1997	57 270	38 145	122,3	124,1	118,3	104,9
1998	67 764	45 162	118,3	118,4	114,3	103,6
1999	77 187	50 076	116,1	112,7	110,0	102,5
2000	87 750	55 785	113,5	111,4	109,8	101,5
2001	103 554	64 913	118,0	116,2	109,2	106,4
2002	122 481	77 622	118,3	119,6	105,3	113,6
2003	137 193	88 753	112,0	114,3	104,7	109,2
2004	145 523	93 715	106,1	105,6	106,8	98,9
2005	158 343	103 149	108,8	110,1	103,6	106,3
2006	171 351	110 951	108,2	107,6	103,9	103,6
2007	185 018	114 282	108,0	103,0	108,0	95,4
2008	198 741	121 969	107,4	107,0	106,1	100,8
2009	199 837	124 116	100,6	101,8	104,2	97,7
2010	202 525	132 604	101,3	106,8	104,9	101,8
2011	213 094	141 151	105,2	106,4	103,9	102,4
2012	223 060	144 085	104,7	102,1	105,7	96,6
2013	230 714	151 118	103,4	104,9	101,7	103,1
2014	237 695	155 717	103,0	103,0	99,8	103,2
2015	247 784	162 300	104,2	104,2	99,9	104,3

Source: *KSH IMS* (earnings) and *consumer price accounting*. Gross earnings, gross earnings index: 2000–: STADAT (2016. 02. 19. version). Net earnings, net earnings index: 2008–: STADAT (2016.02.19.version). Consumer price index: 1990–: STADAT (2016. 01. 14. version). Real earnings index: 1990–: STADAT (2016. 02.19. version).

Table 4

Gross earnings ratios in the economy, HUF/person/month

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Agriculture, forestry and fishing	103 190	112 388	122 231	133 570	137 101	143 861	153 301	164 136	171 921	180 251	189 169
Mining and quarrying	171 465	190 530	202 985	225 660	244 051	234 243	254 607	271 012	279 577	287 036	290 096
Manufacturing	145 997	158 597	172 277	183 081	190 331	200 692	213 281	230 877	241 170	253 162	263 336

Electricity, gas, steam and air conditioning supply	24309	26592	29424	32159	34505	36390	37960	40403	41045	42244	438629
Water supply; sewerage, waste management and remediation activities	14069	15192	16452	17809	18188	19364	20764	22306	22464	22447	231073
Construction	10668	11763	13630	14647	15204	15313	15682	16369	17779	18580	196810
Wholesale and retail trade; repair of motor vehicles and motorcycles	13108	14523	15807	17178	17520	18582	19692	21252	21896	22382	230226
Transportation and storage	14908	16209	17376	18636	19635	20012	21046	21779	22340	23038	239102
Accommodation and food service activities	95823	102908	112222	120600	122561	122699	125757	139731	147023	152874	157234
Information and communication	28876	30672	32892	35821	36675	36813	39293	41004	42640	44942	460319
Financial and insurance activities	34989	40158	39051	43160	42750	43348	45698	45974	47096	48654	494014
Real estate activities	13449	14550	15925	16985	17747	18293	18489	21927	21239	21463	221378
Professional, scientific and technical activities	20083	21293	24498	28115	29294	29749	30322	33086	32042	34519	367193
Administrative and support service activities	11955	12848	13912	14712	14913	14576	14967	16330	16923	18138	197808
Public administration and defence; compulsory social security	20736	22309	25335	26767	23466	24298	25288	24719	25883	26265	282264
Education	18144	19121	19320	20460	19498	19590	19298	19734	21692	24593	258391
Human health and social work activities	14410	15189	16060	16977	16126	14282	15382	15146	15128	14307	146842
Arts, entertainment and recreation	15432	16146	18388	18383	17919	17976	19240	20990	21689	22632	213265
Other service activities	13384	14089	15352	15790	16037	15025	16240	17582	17477	18160	192884
National economy, total	158343	171351	185018	198741	199837	202525	213094	223060	230664	237695	247784
Of which:											
- Business sector	148555	162531	177415	192044	200304	206863	217932	233829	242191	252664	262456
- Budgetary institutions	182185	193949	206225	219044	201632	195980	203516	200027	207191	209706	220315

Note: The data are recalculated based on the industrial classification system in effect from 2008.

Source: KSH mid-year IMS. (online source: http://www.bpdata.eu/mpt/2016ent06_02a)

HAJDÚ JÓZSEF

A MUNKA DÍJAZÁSÁNAK RENDSZERE MAGYARORSZÁGON

(Összefoglalás)

A munkavállalónak járó javadalmazás (bérezés) megállapítása mögött legalább két tényező áll. Egyik a humán erőforrás menedzsment (HR) szempontú, míg a másik a munkajogi szempontú megközelítés. Az első a bért elsősorban a munkahelyi ösztönzési és juttatási rendszer részeként tekinti, amelynek fő célja, hogy kapcsolatot teremtsen a munkavállalók és munkáltatók érdekei között. A munkáltató érdeke, hogy biztosított legyen a működéséhez szükséges megfelelő mennyiségű és teljesítményű munkavállaló. Ezzel párhuzamosan a munkavállaló érdeke, hogy megérje neki dolgozni, vagyis anyagilag is elégedett legyen a munkájával.

A tanulmány fókuszpontja a munkajogi megközelítésen van. A munkabér egy olyan munkajogi jogintézmény, amely a munkavégzésre irányuló individuális kötelelem (munkaszerződés) és kollektív kötelelem (kollektív szerződés) egyik legfontosabb eleme (pl. minimálbér, alaphér, bérpótlékok, bértárgyalás, stb.). A munkabérnek kiemelkedően fontos szerepe van a munkaviszonyban mind a munkáltató, mind a munkavállaló szempontjából, mivel a) a munkaviszony elsődleges ismérve (a munkaerő ellenszolgáltatása), b) a munkaszerződés, egyik kötelező tartalmi eleme (l. alaphér), c) a munkáltató egyik legfontosabb kötelezettsége a munkabér megfizetése és d) a munkavégzés ellenértéke.

A cikk áttekinti a munka díjazására vonatkozó hatályos magyar munkajogi szabályozás dogmatikai rendszerét, beleértve a bérvédelem legfontosabb garanciális elemeit: a) egyenlő bánásmódon alapuló védelem (alkotmányos és alapelvi védelem), b) a munka törvénykönyvében szabályozott bérvédelmi szabályok és c) bérgarancia alapon keresztül megvalósuló bérvédelem.